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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,954	03/27/2007	Seiichi Kusano	80420(302760)	4105
21874 7590 06/19/2009 EDWARDS ANGELL PALMER & DODGE LLP P.O. BOX 55874 BOSTON, MA 02205				
EXAMINER				
RUSSELL, CHRISTINA MARIE				
ART UNIT		PAPER NUMBER		
2832				
MAIL DATE		DELIVERY MODE		
06/19/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/564,954

**Applicant(s)**

KUSANO, SEIICHI

**Examiner**

CHRISTINA RUSSELL

**Art Unit**

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,3 and 5-7 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 2,3 and 5-7 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 07 August 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by the Japanese publication, provided by the Applicant, JP H04-34091 (henceforth referred to as '34091).

3. In terms of independent claim 5, '34901 teaches a speaker (S) and means for mounting said speaker to a plate (9). The speaker is easily mounted and removed through a plurality of fixtures (20), at a plurality of fixing points, mounted on a speaker frame (6). Wherein each fixture (20) includes first (21) and second (23) engagers, arranged on opposite sides of the attaching plate (9), where the first engager is formed with a screw hole, or receiving hole, having a shape that corresponds to the engaging groove (30) of the receiver, or installation hole (32), where each second engager is formed with an engaging piece, and a plurality of receivers (32) formed in said speaker frame so as to engage said first engagers. Lastly, '34901 shows the engaging piece as elastically passed through a fixed hole in said attaching plate and is elastically restored after passing through the fixed hole so as to clamp the attaching plate to the speaker

frame. This elastically restoring process can be seen in the transition between Figures 1 and 2. (See Figures 1-3).

4. As for claim 2, '34091 teaches each fixture secured on the speaker frame by tightening a screw (31) in a screw hole, or hole for insertion of a screw (20c), formed in the first engager (21).
5. As for claim 6, '34901 further teaches an adapter (30) arranged between the attaching plate and the speaker frame.
6. As for claim 7, '34901 teaches each engaging piece having a first slant (8i) that is slanted in a spreading manner, a second slant (8j) that is slanted in a reducing manner from the top end of the first slant, and a top end face (8k) extending horizontally from the top end of the second slant (see Figure 2).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over '34091 in view of the US patent to Novitschitsch (6,457,547).

9. '34091 teaches all the elements as presented above, but fails to teach the presence of a water drainage system, which drains water outward from the plate and through an internal space close to the lower end of the mounting system. Novitschitsch teaches a similar speaker mounting system, with a mounting plate, fixtures, having engaging members, or screws, a speaker frame, etc. Novitschitsch also provides a sealing lip that elastically deforms and restores during the mounting and removing process (see Figures 1 and 2, and column 1, lines 30-35, 41-48, and 54-56, column 2, line 6 – column 3, line 61). However, Novitschitsch, unlike '34091, provides a water drain (43), positioned on the lower end of the mounting device and extending away from the support, or plate. Since '34091 and Novitschitsch both teach similar speaker mounting elements, both for use in automobiles, it would have been obvious to attach the water drain of Novitschitsch in the same location on the '34091 mounting system.

10. It can also be seen in the patent application publication to Kiriara et al. (US 2004/ 0037445) (see paragraphs [0153-[0156], [0161], [0162], and [0169]) and the US patents to Hayakawa et al. (6,128,394) (see column 8, lines 51-67), Kiriara et al. (6,987,860) (see column 1, line 45 – column 2, line 4), Skrychi (4,853,966) (see column 3, lines 37-44), and Chen (6,626,262), that providing a water drain or waterproofing means is common when mounting a speaker, in particular in a automobile door panel or trunk, where moisture is more prevalent and more likely to emerge or seep in. Lerma (US 2005/0091739) shows that water drains have also been used in spa speakers, to allow the moisture, from a steam room for example, to be drained away from the speaker to prevent damage. Water drains placed within speaker mountings have been

seen throughout the art to provide protection for speakers mounted in high moisture areas.

### ***Response to Arguments***

11. Applicant's arguments filed 2/11/2009 have been fully considered but they are not persuasive.

12. The Applicant again relies on four features which are cited as not being taught by the cited references; however, these four features, listed on page 6, do not appear in the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

13. The Applicant further argues that '34091 does not teach both elastic deformation when passing through the fixed hole and elastic restoring after passing through the fixed hole. As the claim states, '34091 shows, again between Figures 1 and 2, the engaging piece of the second engager (23) elastically passed through a fixed hole in the attaching plate and is elastically restored after passing. The engaging pieces of '34091 are bendable toward the direction of the circumference; therefore, when the engaging pieces of the second engagers (23) pass through the fixed holes (11), the center parts (23a) bend, or elastically deform, to allow the engaging piece to pass. Once the engaging piece has passed through the fixed hole (11) the center parts (23a) are elastically restored, as seen in Figure 2.

14. The Applicant argues that '34091 does not teach a screw hole formed in each first engager. This new limitation has been addressed in the above rejection.
15. The Applicant argues that Novitschitsch and '34091 fail to teach all the limitations of claim 3, or the preceding claim 5. Once again, the new limitation of claim 5 has been addressed above, therefore, Novitschitsch and '34091 do teach, in combination, all the limitations of claims 3 and 5.
16. The Applicant argues that the engaging piece of the second engager (23) is not an "engaging piece". The Examiner disagrees since the engaging piece of the second engager (23) engages the bolt or screw (31) (see Figure 3).
17. Lastly, the Examiner still believes that the second part of the recited argument that "the second engager is elastically restored to its original shape, **even when the screw is tightened down in the first engager**" is not recited in the claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINA RUSSELL whose telephone number is (571)272-4350. The examiner can normally be reached on Mon-Fri, 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christina Russell/  
Examiner, Art Unit 2832  
6/2/2009

/Jeffrey Donels/  
Primary Examiner, Art Unit 2832